



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUL 16 2015

Mr. James Bruggers  
The Courier-Journal  
525 West Broadway  
P.O. Box 740031  
Louisville, Kentucky 40202

**RE: Freedom of Information Request No. EPA-R4-2015-008254**

Dear Mr. Bruggers:

This letter is in response to your Freedom of Information Act (FOIA) request of June 23, 2015, regarding copies of any notices of violations, citations and other environmental enforcement documents issued by, and/or on behalf of, EPA involving the Louisville Metropolitan Sewer District's compliance with EPA's consent decree with MSD, since the 2013 enforcement action, in which MSD agreed to pay a fine of \$101,000.

Enclosed are records responsive to your request. Fees are waived as de minimis.

You may appeal this response to the National Freedom of Information Officer, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, D.C. 20460 Email: [hq.foia@epa.gov](mailto:hq.foia@epa.gov). Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, N.W. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, D.C. 20004. Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should include the FOI number listed above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

Should you have questions regarding this response, please contact Donna Robinson at (404) 562-9500 or [robinson.donna@epa.gov](mailto:robinson.donna@epa.gov).

Sincerely,

*Caroline Y. Freeman-Robinson, Jr.*  
Vickie H. Tellis  
Acting Assistant Regional Administrator

Enclosures

**FREEDOM OF INFORMATION ACT REQUEST**  
**NON-EXEMPT DOCUMENTS**  
**EPA-R4-2014-008254**

**Letters (2) – From:** Mr. Jeff Cummins, Director, Division of Enforcement, Kentucky Department for Environmental Protection and Ms. Denisse Diaz, Chief, Clean Water Enforcement Branch, Water Protection Division, U.S. EPA, Region 4; **To:** Mr. Greg Heitzman, P.E., Executive Director, Louisville and Jefferson County Metropolitan Sewer District, 700 West Liberty Street, Louisville, Kentucky; **Dated:** January 26, 2015 and November 19, 2013

**Re: Civil Action No. 3:05cv236-S**  
Metropolitan Sewer District Consent Decree  
Demand for Stipulated Penalties

REGION 4 FREEDOM OF INFORMATION ACT (FOIA) REQUEST

Processing Worksheet

EPA-R4-2015- 008254

DROBINSON  
GOVERNMENT INFORMATION  
SPECIALIST

FOIA OFFICER

LAGROSS  
FOIA CHIEF  
7/13/15

OEA FOIA  
PARALEGAL

ATTORNEY

KMILLS  
BRANCH CHIEF

C. R. Mills  
ARA OR DEPUTY ARA  
OPM

PROCESSING DATA:

Type of Request:

- ☒ Simple ☐ Complex  
☒ Full Grant ☐ Partial Grant/Partial Denial ☐ Full Denial ☐ No Record ☐ Withdrawal  
☐ Records Not Reasonably Described ☐ Duplicate Request ☐ Fee Related Reason  
☐ Other (Check one) ☐ No Response from requestor ☐ Explain: \_\_\_\_\_

Check if applicable to this request:

- ☐ Full Transfer to HQ ☐ Partial Transfer to HQ ☐ Full Referral to Other Agency ☐ Partial Referral to Other Agency

Select All Media's Contacted:

- ☐ APTMD ☒ WPD ☐ RCRA ☐ Superfund ☐ SESD ☐ RA ☐ OEA ☐ OPM ☐ Databases

Total Number of Responsive Documents: (Write Total Number(s) in the block. If it is a CD, indicate the number of documents and pages on the CD)

Full Grant  Partial Grant  Full Denial

Total Number of Responsive Pages:

Full Grant  Partial Grant  Full Denial

OEA Consultation:

If applicable, Name of attorney(s) assigned to this request: \_\_\_\_\_

NOTE TO GOVERNMENT INFORMATION SPECIALIST: PLEASE BE SURE TO ADD YOUR ADMIN COST AND, IF NEEDED, SUBMIT THE INVOICE TO FINANCE AND/OR UPLOAD YOUR RESPONSIVE DOCUMENT TO FOIA ONLINE PRIOR TO SUBMITTING PACKET TO FOIA COORDINATOR FOR CLOSURE.

☒ Added fees in FOIAOnline ☐ Invoice sent to Finance ☐ Uploaded records to FOIAOnline



STEVEN L. BESHEAR  
GOVERNOR



LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

DIVISION OF ENFORCEMENT

300 FAIR OAKS LANE

FRANKFORT KENTUCKY 40601

[www.kentucky.gov](http://www.kentucky.gov)

November 19, 2013

**COPY**

7012 3460 0003 0891 7522

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Mr. Greg Heitzman, P.E.  
Executive Director  
Louisville and Jefferson County Metropolitan Sewer District  
700 West Liberty Street  
Louisville, Kentucky 40203

Re: Civil Action No.: 3:05cv236-S  
Metropolitan Sewer District Consent Decree  
Demand for Stipulated Penalties

Dear Mr. Heitzman:

The Kentucky Department for Environmental Protection (KDEP) and the United States Environmental Protection Agency Region 4 have reviewed Metropolitan Sewer District's (MSD) Unauthorized Discharges that MSD electronically provided for the period covering January 1, 2013 to June 30, 2013.

Pursuant to Paragraph 46 of the Consent Decree, KDEP and the EPA may assess a stipulated penalty for each Unauthorized Discharge in a dollar amount that is dependent upon when and from what source the Unauthorized Discharges occur after the Date of Entry of the Consent Decree. The EPA and KDEP could thus assess stipulated penalties for all of the Unauthorized Discharges that occurred between January 1, 2013, and June 30, 2013. Therefore, after review of the submitted documentation, and in consideration of the circumstances surrounding some of the Unauthorized Discharges as well as the significant progress that has been made by MSD to eliminate Unauthorized Discharges, the EPA and KDEP hereby demands stipulated penalties in the amount of \$101,000.00.

In accordance with Paragraph 50 of the Consent Decree, MSD shall pay \$50,500 (50%) of the stipulated penalty to the Commonwealth of Kentucky and \$50,500 (50%) of the stipulated penalty to the United States within 10 days of receipt of this letter. Electronic funds transfer wiring instructions for the payment to the United States are enclosed.

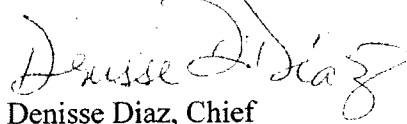
2013 NOV 22 10:51 CWB

If there are any questions, you may contact Mr. Courtney Seitz, of the KDEP, at (502) 564-3410, or you may contact Mr. Dennis Sayre, of the EPA, at (404) 562-9756.

Sincerely,



Jeff Cummins, Director  
Division of Enforcement  
KY Department for Environmental Protection



Denisse Diaz, Chief  
Clean Water Enforcement Branch  
Water Protection Division  
U.S. EPA, Region 4

Enclosure

cc: Mr. Laurence J. Zielke  
Zielke Law Firm, PLLC

Mr. Bill Weinischke  
Environmental Enforcement Section, U.S.D.O.J.

Mr. Jeff Cummins  
Division of Enforcement, KDEP

Mr. Courtney Seitz  
Division of Water, KDEP



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF ENFORCEMENT  
300 FAIR OAKS LANE  
FRANKFORT KENTUCKY 40601  
www.kentucky.gov  
1/26/15

CERTIFIED MAIL 7011 3500 0001 1971 0396  
RETURN RECEIPT REQUESTED

Mr. Greg Heitzman, P.E.  
Executive Director  
Louisville and Jefferson County Metropolitan Sewer District  
700 West Liberty Street  
Louisville, Kentucky 40203

Re: Civil Action No.: 3:05cv236-S  
Metropolitan Sewer District Consent Decree  
Demand for Stipulated Penalties

Dear Mr. Heitzman:

The Kentucky Department for Environmental Protection (KDEP) and the United States Environmental Protection Agency Region 4 have reviewed Metropolitan Sewer District's (MSD) Unauthorized Discharges that MSD electronically provided for the period covering July 1, 2013 to June 30, 2014 and Discharge Monitoring Reports for Total Phosphorous for wastewater treatment plants specified in Paragraph 46.f of the Consent Decree from November 1, 2010 to June 30, 2014.

Pursuant to Paragraph 46 of the Consent Decree, KDEP and the EPA may assess a stipulated penalty for each Unauthorized Discharge and Total Phosphorous exceedance in a dollar amount that is dependent upon when and from what source the Unauthorized Discharges or Total Phosphorous exceedances occur after the Date of Entry of the Consent Decree. The EPA and KDEP could thus assess stipulated penalties for all of the Unauthorized Discharges that occurred between January 1, 2013, and June 30, 2013 and could further assess stipulated penalties for Total Phosphorous samples greater than one milligram per liter at wastewater treatment plants specified in Paragraph 46.f from November 1, 2010 to June 30, 2014. Therefore, after review of the submitted documentation and discharge monitoring reports, and in consideration of the circumstances surrounding some of the Unauthorized Discharges as well as the significant progress that has been made by MSD to eliminate Unauthorized Discharges, the EPA and KDEP hereby demands stipulated penalties in the amount of \$228,000.

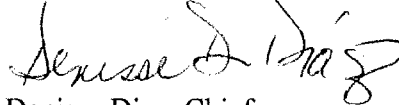
In accordance with Paragraph 50 of the Consent Decree, MSD shall pay \$114,000 (50%) of the stipulated penalty to the Commonwealth of Kentucky and \$114,000 (50%) of the stipulated penalty to the United States within 10 days of receipt of this letter. Electronic funds transfer wiring instructions for the payment to the United States are enclosed.

If there are any questions, you may contact Mr. Maurice Horsey, Chief of the Municipal and Industrial Enforcement Section, EPA Region 4 at (404) 562-9764 or Mr. Jeff Cummins, Director, Division of Enforcement, KDEP at (502) 564-2150.

Sincerely,



Jeff Cummins, Director  
Division of Enforcement  
KY Department for Environmental Protection



Denisse Diaz, Chief  
NPDES Permitting and Enforcement Branch  
Water Protection Division  
U.S. EPA, Region 4

Enclosure

cc: Mr. Laurence J. Zielke  
Zielke Law Firm, PLLC

Mr. Bill Weinischke  
Environmental Enforcement Section, U.S.D.O.J.

Mr. Jeff Cummins  
Division of Enforcement, KDEP

Mr. Courtney Seitz  
Division of Water, KDEP